

Sixth Appellate District

San Jose, California

MONDAY, DECEMBER 9, 2002

H022870 PEOPLE v. BUENROSTO

The judgment is affirmed. (not published)
(Elia, J.; We concur: Premo, Acting P.J., Rushing, J.)
Filed December 9, 2002

TUESDAY, DECEMBER 10, 2002

The Court met in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California. Present: Bamattre-Manoukian, Acting P.J.; Elia, J.; Mihara, J.; and Jane V. Flor, Deputy Clerk.

H023729 PEOPLE v. TROY S.

Cause called and argued by Lori Quick appearing for Appellant and by Sharon Wooden, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H023348 PEOPLE v. STEVEN A.

Cause called and argued by Paul Couenhoven appearing for Appellant and by Moona Nandi, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H024484 MICHAEL H. v. RICHARD N.

Cause called and argued by Allison Brumbach appearing for Appellant and by Kathleen O'Reilly appearing for Respondent. Cause ordered submitted.

H022684 PEOPLE v. CARELL

Cause called and argued by Erik G. Babcock appearing for Appellant and by Nancy H. Tung, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H024525 KATHLEEN C. on Habeas Corpus

Cause called and argued by Mary R. Williams appearing for Petitioner, by Teri L. Robinson, Deputy County Counsel, appearing for Respondent, and by Robert Masterson, Deputy District Attorney, appearing for the minor. Cause ordered submitted.

H023017 FERRIS v. CITY OF SAN JOSE

Cause called and argued by Sam Ferris, Appellant appearing in pro per and by Brian Hopper, Deputy City Attorney, appearing for Respondent. Cause ordered submitted. Court recesses until 1:30 p.m.

Sixth Appellate District

San Jose, California

Tuesday, December 10, 2002 (continued)

The Court reconvened at 1:30 p.m. in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California.
Present: Bamattre-Manoukian, Acting P.J.; Mihara, J.; Rushing, J.; and S. Nasson, Deputy Clerk.

H023277 PEOPLE v. JOSHUA O.

Cause called and argued by Christopher Hite appearing for Appellant and by Margo Yu, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H023612 OXNER v. DAIMLER CHRYSLER CORPORATION

Cause called and argued by Jon Universal appearing for Appellant and by Terry Baker appearing for Respondent. Cause ordered submitted. Court adjourns.

H023535 PEOPLE v. LEGGE

The judgment is reversed and the matter is remanded to the superior court with directions to hold an evidentiary hearing to determine whether defendant's 1998 plea agreement required dismissal of the Penal Code section 667.5, subdivision (b) prison prior alleged in Case No. 208747. If the court determines that dismissal of the prior conviction was part of the plea agreement, the court shall resentence defendant accordingly. If the court determines that dismissal of the prior conviction in Case No. 208747 was not part of the plea agreement, the court shall reinstate the judgment. (not published)
(Premo, Acting P.J.; We concur: Elia, J., Rushing, J.)
Filed December 10, 2002

H024236 PEOPLE v. LEOPOLDO V.

The juvenile court's order is affirmed. (not published)
(Mihara, J.; We concur: Bamattre-Manoukian, Acting P.J., Elia, J.)
Filed December 10, 2002

H023741 SALSMAN v. WINSTEAD, as Administrator, etc.

The judgment is affirmed. (not published)
(Premo, Acting P.J.; We concur: Wunderlich, J., Rushing, J.)
Filed December 10, 2002

Sixth Appellate District

San Jose, California

Tuesday, December 10, 2002 (continued)

H023753 PEOPLE v. RODRIGUEZ

The judgment is affirmed. (not published)
(Bamattre-Manoukian, Acting P.J.; We concur: Elia, J., Mihara, J.)

Filed December 10, 2002

H024252 IN RE L. C.; DFCS v. J. C.

H024984 IN RE J. C., ON HABEAS CORPUS

The judgment terminating parental rights is affirmed. The petition for a writ of habeas corpus is denied. (not published)
(Bamattre-Manoukian, Acting P.J.; We concur: Mihara, J., Rushing, J.)

Filed December 10, 2002

WEDNESDAY, DECEMBER 11, 2002

H024925 JESSE B. v. SUPERIOR COURT OF MONTEREY COUNTY

The petition for extraordinary writ is denied. (not published)

(Mihara, J.; We concur: Bamattre-Manoukian, Acting P.J., Rushing, J.)

Filed December 11, 2002

H023400 PEOPLE v. THOMPSON

(Filed order modifying opinion.) The petition for rehearing is denied. There is no change in the judgment. (not published)
(Wunderlich, J., Bamattre-Manoukian, Acting P.J., Mihara, J.)

Filed December 11, 2002

H022723 PEOPLE v. SERRANO

The judgment is affirmed. (not published)
(Mihara, J.; We concur: Bamattre-Manoukian, Acting P.J., Elia, J.)

Filed December 11, 2002

H023882 In re CODY C.; DFCS v. KATHLEEN C.

The judgment is affirmed. (not published)
(Elia, J.; We concur: Bamattre-Manoukian, Acting P.J., Mihara, J.)

Filed December 11, 2002

Sixth Appellate District

San Jose, California

Wednesday, December 11, 2002 (continued)

H024525 KATHLEEN C. on Habeas Corpus.

We grant the petition for habeas corpus. We direct the juvenile court to vacate its order terminating reunification services for petitioner and setting the section 366.26 hearing as to Cody. Respondent court is ordered to return Cody to petitioner's custody or, in the alternative, to hold a new disposition hearing and, in the absence of proof of the findings required for continued out-of-home placement, to order that Cody be returned to petitioner's custody or that appropriate reunification services be provided to her. (not published) (Elia, J.; We concur: Bamattre-Manoukian, Acting P.J., Mihara, J.)

Filed December 11, 2002

H021863 PEOPLE v. DODSON

The judgment is hereby modified in the following respects: (1) the prior serious felony conviction finding under Penal Code section 667, subdivision (a) and the five-year enhancement term that it triggered are hereby stricken, (2) the prior conviction finding under Penal Code section 667, subdivisions (b) to (i) is stricken, (3) the term for Count 1 is modified to an undoubled upper term of six years and (4) the term for Count 2 is modified to a consecutive undoubled one-third the midterm sentence of one year and four months. The modified total term shall be seven years and four months in state prison. The trial court is directed to prepare an amended abstract of judgment and forward a certified copy of the amended abstract to the Department of Corrections. As modified, the judgment is affirmed. (not published)

(Mihara, J.; I concur: Rushing, J.; Dissenting opinion by Bamattre-Manoukian, Acting P.J.)

Filed December 11, 2002

THURSDAY, DECEMBER 12, 2002

H024231 PEOPLE v. LANDA

The order of the court is affirmed. (not published) (Premo, Acting P.J.; We concur: Wunderlich, J., Rushing, J.)
Filed December 12, 2002

Sixth Appellate District

San Jose, California

Thursday, December 12, 2002 (continued)

H021676 PEOPLE v. ROGERS

The judgment is reversed and the matter remanded to permit the trial court to exercise its discretion in determining whether to order the sentences for Counts 1 and 3 to run concurrently or consecutively. Should the court determine in the exercise of its discretion that the sentences for Counts 1 and 3 shall run concurrently the court shall resentence defendant accordingly. If the court determines that the sentences for Counts 1 and 3 shall run consecutively, the court shall state its reasons therefore and reinstate the judgment. (not published)
(Premo, Acting P.J.; We concur: Elia, J., Rushing, J.)
Filed December 12, 2002

H024196 PEOPLE v. BARNETT

The judgment is modified to reflect a restitution fine pursuant to Penal Code section 1202.4 in the amount of \$200 and a restitution fine pursuant to Penal Code section 1202.45 in the amount of \$200, the latter to be suspended unless defendant's parole is revoked. The Superior Court is directed to prepare an amended abstract of judgment reflecting these modifications and to forward a copy of the amended abstract to the Department of Corrections. As modified, the judgment is affirmed. (not published)
(Premo, J.; We concur: Bamattre-Manoukian, Acting P.J., Mihara, J.)
Filed December 12, 2002

FRIDAY, DECEMBER 13, 2002

H022801 PEOPLE v. ANDERSON

By the Court*:

Appellant's petition for rehearing is denied.
Filed: December 13, 2002

*Before Bamattre-Manoukian, Acting P.J., Wunderlich, J. and Mihara, J.

H023286 ACS INNOVATIONS, INC. v. MAX GROUP CORPORATION

The judgment is affirmed. (not published)
(Rushing, J.; I concur: Bamattre-Manoukian, Acting P.J.; I concur in the judgment only: Mihara, J.)
Filed December 13, 2002

Sixth Appellate District

San Jose, California

Friday, December 13, 2002 (Continued)

H022600 PEOPLE v. PATHAN

The judgment is reversed and the matter is remanded for resentencing. (not published)
(Bamattre-Manoukian, Acting P.J.; We concur: Elia, J., Mihara, J.)

Filed December 13, 2002

H024829 PEOPLE v. WILLIAMS

The order denying appellant's petition for writ of error coram nobis is affirmed. (not published)
(Elia, J.; We concur: Bamattre-Manoukian, Acting P.J., Mihara, J.)

Filed December 13, 2002

H023835 DFCS v. MONCAIS C.

By the Court*:

Appellant's petition for rehearing is denied.

Filed: December 13, 2002

*Before Premo, Acting P.J., Elia, J. and Rushing, J.

H024737 PEOPLE v. DURAN

The judgment is affirmed. (not published)
(Bamattre-Manoukian, Acting P.J.; We concur: Premo, J., Mihara, J.)

Filed December 13, 2002

H023387 PEOPLE v. FRASER

The judgment is affirmed. (not published)
(Bamattre-Manoukian, Acting P.J.; We concur: Elia, J., Mihara, J.)

Filed December 13, 2002

H022573 PEOPLE v. ALEGRE

The judgment is affirmed. (not published)
(Bamattre-Manoukian, Acting P.J.; We concur: Elia, J., Mihara, J.)

Filed December 13, 2002

H024125 PEOPLE v. BOOKER

The judgment is affirmed. (not published)
(Bamattre-Manoukian, Acting P.J.; We concur: Elia, J., Mihara, J.)

Filed December 13, 2002

Sixth Appellate District

San Jose, California

Friday, December 13, 2002 (Continued)

H023309 PEOPLE v. BRODIS

By the Court*:

Appellant's petition for rehearing is denied.

Filed: December 13, 2002

*Before Bamattre-Manoukian, Acting P.J., Elia, J. and Mihara, J.

H022136 PEOPLE v. NAVARRO, et al.

The judgment is reversed, and the matter is remanded to the trial court for a possible retrial of the allegations that each defendant's 1998 San Joaquin County conviction for violating section 245, subdivision (a)(1) is a "serious" felony under section 1192.7. (*People v. Monge* (1997) 16 Cal.4th 826, 829-845; *People v. Cortez* (1999) 73 Cal.App.4th 276, 284.) If Javier Navarro's prior conviction allegation is found true, the trial court shall reinstate the judgment against him with a modification of his conduct credits pursuant to Penal Code section 4019; if the allegation is not proved, the trial court shall resentence Javier Navarro, including a calculation of his conduct credits pursuant to Penal Code section 4019. If Rudy Navarro's prior conviction allegation is found true, the trial court shall reinstate the judgment against him; if the allegation is not proved, the trial court shall resentence Rudy Navarro accordingly. (not published)

(Mihara, J.; We concur: Bamattre-Manoukian, Acting P.J., Wunderlich, J.)

Filed December 13, 2002